

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MICHAEL EUGENE SCOTT,)	1:18-cv-01340 JLT (HC)
)	
Petitioner,)	
)	
vs.)	ORDER TRANSFERRING CASE TO THE UNITED
)	STATES DISTRICT COURT FOR THE CENTRAL
DEPARTMENT OF CORRECTIONS,)	DISTRICT OF CALIFORNIA
)	
Respondent.)	
)	
)	

Petitioner, a state prisoner proceeding pro se, has filed a habeas corpus action pursuant to 28 U.S.C. § 2254, in which he challenges a prison disciplinary action. Petitioner has submitted an application to proceed in forma pauperis; the application has not been ruled on by this court.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants reside in the same state, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b).

In a habeas matter, venue is proper in either the district of conviction or the district of confinement. 28 U.S.C. § 2241(d). In this case, petitioner challenges the result of a prison disciplinary proceeding which occurred in California Men’s Colony, East prison located in the Central

1 District of California. Whereas here the petitioner attacks the execution of his sentence, as opposed to
2 an attack on the conviction itself, the proper forum in which to review such a claim is the district of
3 confinement. See Dunn v. Henman, 875 F.2d 244, 249 (9th Cir. 1989) (stating, in a 28 U.S.C. § 2241
4 action, that "[t]he proper forum to challenge the execution of a sentence is the district where the
5 prisoner is confined."). Petitioner is confined in California Men's Colony, East prison, located in the
6 Central District of California. Therefore, the petition should have been filed in the United States
7 District Court for the Central District of California. In the interest of justice, a federal court may
8 transfer a case filed in the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v.
9 McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

10 Accordingly, the Court **ORDERS** that this matter is transferred to the United States District
11 Court for the Central District of California.

12
13 IT IS SO ORDERED.

14 Dated: October 3, 2018

/s/ Jennifer L. Thurston
15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28